

Kenneth A. Gallo (*pro hac vice*)
Paul D. Brachman (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K Street, NW
Washington, DC 20006-1047
Telephone: (202) 223-7300
Facsimile: (202) 204-7420
Email: kgallo@paulweiss.com
Email: pbrachman@paulweiss.com

William B. Michael (*pro hac vice*)
Crystal L. Parker (*pro hac vice*)
Daniel A. Crane (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
Email: wmichael@paulweiss.com
Email: cparker@paulweiss.com
Email: dcrane@paulweiss.com

Joshua Hill Jr. (SBN 250842)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
535 Mission Street, 24th Floor
San Francisco, CA 94105
Telephone: (628) 432-5100
Facsimile: (628) 232-3101
Email: jhill@paulweiss.com

Attorneys for Defendant Intuitive Surgical, Inc.

[Additional counsel listed on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff,

v.

INTUITIVE SURGICAL, INC.,

Defendant.

Case No. 3:21-cv-03496-AMO

**DEFENDANT'S UNOPPOSED
ADMINISTRATIVE MOTION TO
SUPPLEMENT OMNIBUS
SEALING MOTION**

The Honorable Araceli Martínez-Olguín

MOTION AND NOTICE OF MOTION

Pursuant to Civil Local Rule 7-11 and 7-3(d), Defendant Intuitive Surgical, Inc. (“Intuitive”) hereby brings this unopposed Administrative Motion to supplement the Omnibus Sealing Motion in Connection with Defendant’s Motion for Limited Supplemental Discovery, Dkt. 253 (the “Omnibus Motion”). Pursuant to the Joint Stipulation and Order Regarding Omnibus Sealing Procedures, Dkt. 242, Intuitive filed the Omnibus Motion on September 17, 2024, asking that the Court maintain under seal two documents (specifically, settlement agreements to which Intuitive is a party) filed by Plaintiff Surgical Instrument Service Company, Inc. (“SIS”) in support of its Opposition to the Motion for Limited Supplemental Discovery. Intuitive also requested that redactions be applied to SIS’s Opposition and Intuitive’s Reply, to maintain the confidentiality of the settlement agreements.

By this Motion, and pursuant to the Joint Stipulation and Order Regarding Omnibus Sealing Procedures, Dkt. 242, Intuitive asks the Court to permit redactions to be applied to one additional document: the December 2, 2022 report of SIS’s damages expert, Richard Bero, which Intuitive provisionally filed under seal. *See* Brachman Decl. Ex. 2 (Dkt. 243-2 (sealed), Dkt. 244-3 (public slipsheet)) (the “Bero Report”).

The Bero Report was previously filed under seal in connection with Intuitive’s *Daubert* motion to exclude Bero’s testimony, *see* Dkt. 126-2, and the Court previously granted motions to seal portions of the Bero Report in order to protect certain confidential and competitively sensitive information contained therein. *See* Dkt. 205 at 12–14, 22–24, 34, 36–37. Accordingly, a version of the Bero Report with redactions was filed publicly. *See* Dkt. 229-45. Intuitive respectfully requests that the Court again permit redactions to those same portions of the Bero Report, and grant Intuitive leave to file the redacted version of the Bero Report that was previously filed publicly at Dkt. 229-45 as the public version of Exhibit 2 to the Declaration of Paul Brachman.

Intuitive conferred with SIS, and SIS does not oppose this Motion.

1 An updated Proposed Order granting Intuitive's Omnibus Motion with revisions
2 to reflect the relief sought by this Motion is attached hereto.

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4 Dated: September 25, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

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6 Kenneth A. Gallo (*pro hac vice*)
Paul D. Brachman (*pro hac vice*)
7 **PAUL, WEISS, RIFKIND, WHARTON &**
8 **GARRISON LLP**
2001 K Street, NW
Washington, DC 20006-1047
Telephone: (202) 223-7300
9 Facsimile: (202) 204-7420
Email: kgallo@paulweiss.com
10 Email: pbrachman@paulweiss.com

11 William B. Michael (*pro hac vice*)
Crystal L. Parker (*pro hac vice*)
12 Daniel A. Crane (*pro hac vice*)
13 **PAUL, WEISS, RIFKIND, WHARTON &**
14 **GARRISON LLP**
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3000
15 Facsimile: (212) 757-3990
Email: wmichael@paulweiss.com
16 Email: cparker@paulweiss.com
Email: dcrane@paulweiss.com

17
18 Joshua Hill Jr. (SBN 250842)
19 **PAUL, WEISS, RIFKIND, WHARTON &**
20 **GARRISON LLP**
535 Mission Street, 24th Floor
San Francisco, CA 94105
Telephone: (628) 432-5100
21 Facsimile: (628) 232-3101
Email: jhill@paulweiss.com

22 Sonya D. Winner (SBN 200348)
23 **COVINGTON & BURLINGTON LLP**
415 Mission Street, Suite 5400
San Francisco, California 94105-2533
Telephone: (415) 591-6000
24 Facsimile: (415) 591-6091
Email: swinner@cov.com

25
26 Kathryn E. Cahoy (SBN 298777)
27 **COVINGTON & BURLINGTON LLP**
3000 El Camino Real
28 5 Palo Alto Square, 10th Floor

1 Palo Alto, California 94306-2112
2 Telephone: (650) 632-4700
3 Facsimile: (650) 632-4800
4 Email: kcahoy@cov.com

5 Andrew Lazerow (*pro hac vice*)
6 **COVINGTON & BURLINGTON LLP**
7 One City Center 850 Tenth Street NW
8 Washington DC 20001-4956
9 Telephone: (202) 662-6000
10 Facsimile: (202) 662-6291
11 Email: alazerow@cov.com

12 Allen Ruby (SBN 47109)
13 **ALLEN RUBY, ATTORNEY AT LAW**
14 15559 Union Ave. #138
15 Los Gatos, California 95032
16 Telephone: (408) 477-9690
17 Email: allen@allenruby.com

18 *Attorneys for Defendant*
19 *Intuitive Surgical, Inc.*
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CERTIFICATE OF SERVICE

I, Kenneth A. Gallo, hereby certify that on September 25, 2024, I caused a true and correct copy of the foregoing Administrative Motion to Supplement Omnibus Sealing Motion to be electronically filed via the Court's Electronic Case Filing System, which pursuant to the Court's order of September 29, 2008, constitutes service in this action on counsel of record for Surgical Instrument Service Company, Inc.

Dated: September 25, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

Attorney for Intuitive Surgical, Inc.